

4.09.2023
SL No52
Court No.3

***Circuit Bench of Calcutta High Court
At Jalpaiguri
C.O. 54 of 2023***

Rita Devi Yadav & Ors.

-vs-

South Bengal State Transport Corporation.

Mr. Ajay Singhal
Mr. Abhishek Singh
.....for the petitioners.

Mr. Ayan Banerjee
Ms. D. Dhamali
Mr. Debanjan Das
....for the opposite party.

It appears that an inadvertent typographical error has crept into the order dated 28.8.2023.

The case No. "C.O. 54 of 2019" it should actually be "C.O. 54 of 2023".

The inadvertent typographical error is hereby corrected of the order dated 28.8.2023 shall always be read conjointly with this order.

The other portion of the order shall remain unaltered.

This application under Article 227 of the Constitution of India impeaches the Order No.12 dated 15th January, 2020 in Title Suit No. 66 of 2017 passed by the learned Civil Judge (Senior Division) at Siliguri. By the impugned order, learned trial court was pleased to reject the petition filed by the

defendant of this suit under Section 10 of the Code of Civil Procedure.

Briefly stated the petitioners have filed a suit for declaration of title and permanent injunction against the Chairman/Director, South Bengal State Transport Corporation claiming title over the property in suit and permanent injunction etc. being Title Suit No. 154 of 2014

The South Bengal State Transport Corporation with a rival claim of title has filed another suit seeking eviction of the plaintiffs of Title Suit No. 154 of 2014, who are the defendant nos. 1,2 and 3 registered as Title Suit No. 66 of 2017.

Heard Mr. Singhal, learned counsel for the petitioners and Mr. Ayan Banerjee, learned counsel for the opposite parties.

Since the core issue before the court for adjudication of the right, title, interest of either of the parties in both the suit, it is submitted by learned counsel representing the parties with all fairness both the suits should be tried analogously to avoid conflicting decision. According to Mr. Singhal the suit for execution may be transferred to the court of learned Civil Judge (Junior Division), Siliguri.

But my attention is drawn to the fact that the Title Suit No. 66 of 2017 is valued at more than Rs.

50,000,00/- . The learned Civil Judge(Junior Division) does not have pecuniary jurisdiction to try that suit.

Hence, in the interest of justice, the Title Suit No. 154 of 2014 is withdrawn from the file of learned Civil Judge (Junior Division), Siliguri. The said suit shall be tried together with Title Suit No. 66 of 2007, by learned Civil Judge (Senior Division), Siliguri in analogously. Learned trial court is directed to adhere Order No. X of the Code of Civil Procedure and after holding first hearing learned Trial Court should proceed to frame issues, taking into consideration the pleadings to find out where parties are at issue. The learned trial court is further directed to follow strictly the provision as laid down under Order XVII Rule 1 of the Code of Civil Procedure.

Order XVII is set out below:-

“Under Order XVII, Rule(1) of the Code when the hearing of the evidence has once begun the hearing of the suit should be continued from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of the hearing to be necessary for reasons to be recorded by the Judge with.....”.

Learned Trial Court shall ensure expeditious disposal of the suits without granting adjournment beyond the prescribed limit as laid down under the

procedural law unless there is compelling circumstances.

The revisional application is thus disposed of, however, without any order as to cost.

(Siddhartha Roy Chowdhury,J)